



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 41] नई विहली, बृहस्पतिवार, सितम्बर 16 1965 भाद्रा 25, 1887
No. 41] NEW DELHI, THURSDAY, SEPTEMBER 16, 1965/BHADRA 25, 1887

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Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 16th September, 1965:—

BILL No. 56 OF 1965

A Bill to provide for the regulation of the conditions of service of persons absorbed for service in connection with the administration of the Union territory of Goa, Daman and Diu and for matters connected therewith.

Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. This Act may be called the Goa, Daman and Diu (Absorbed Employees) Act, 1965. Short title

5 2. In this Act, unless the context otherwise requires,—

Definitions

(a) “absorbed employee” means a person who immediately before the 20th day of December, 1961, was holding an absorbed post and who on and after that date either served or has been

serving in that or any other post in connection with the administration of the Union territory of Goa, Daman and Diu or in any of the Departments of the Central Government;

(b) "absorbed post" means a civil service or post which existed under the former Portuguese Administration in Goa, § Daman and Diu immediately before the 20th day of December, 1961.

Power to make rules regulating recruitment and conditions of service of absorbed employees and employees of certain corporations.

3. (1) The Central Government may make rules--

(a) for the regulation of recruitment to absorbed posts and the conditions of service of absorbed employees; 10

(b) for the regulation of the conditions of service of persons who were in the service of a Corporation (whether known as a junta or otherwise) immediately before the 20th day of December, 1961, and who on or after that date either served or have been serving in connection with the administration of the Union 15 territory of Goa, Daman and Diu or in any of the Departments of the Central Government.

(2) Any such rule may be made so as to be retrospective to any date not earlier than the 20th day of December, 1961:

Provided that no person shall, by virtue of such retrospective 20 effect, be liable to refund any amount paid to him by way of salary or allowances or pension before the making of any such rule.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised 25 in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no 30 effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal

4. (1) On the making of any rule under section 3, the corresponding law, if any, in respect of any matter for which provision is 35 made in that rule, shall stand repealed with effect from the date of the coming into force of that rule.

(2) The provisions of sections 6 and 24 of the General Clauses Act, 1897, shall apply to such repeal as if the rule and the corresponding law referred to in sub-section (1) were Central Acts. 40

10 of 1897

5. If any difficulty arises in giving effect to the provisions of this Act or any rule made thereunder in relation to any absorbed employee or any person referred to in clause (b) of sub-section (1) of section 3, the Central Government may, by order, make such provision as appears to it to be necessary or expedient for removing the difficulty:

Provided that the power under this section shall not be exercisable after the expiration of a period of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

When Goa, Daman and Diu were integrated with the Union of India and constituted a Union territory in December, 1961, a number of persons who were in the service of the Portuguese Administration including persons employed in some of the corporate bodies, were taken over by the Government of India. By virtue of section 5 of the Goa, Daman and Diu (Administration) Act, 1962, the conditions of service of these employees are still regulated by a Decree called "the Estatuto do Funcionalismo Ultramarino", i.e., the Statute of the Overseas Functionaries. This Statute also regulates the mode of recruitment to the civil services and posts which existed in these areas when they became part of India. The pattern of conditions of service provided by the Statute and the other provisions thereof are different from those applicable to other persons employed in connection with the affairs of the Union. Consequently, difficulties have arisen in properly integrating these employees and also in re-organising the administrative agencies in the Union territory of Goa, Daman and Diu on the lines obtaining in the rest of the country. To remove these difficulties, it is necessary to modify the provisions of the Statute but, as the Statute has the force of law, its provisions cannot be modified except by or under an Act of Parliament. The Bill, therefore, seeks to empower the Central Government to regulate recruitment to the civil services and posts referred to above and also to regulate the conditions of service of the absorbed employees and for the repeal of the corresponding provisions of the Statute of the Overseas Functionaries.

G. L. NANDA.

NEW DELHI;

The 27th August, 1965.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 1-45/64-Goa, dated the 7th September, 1965 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the regulation of the conditions of service of persons absorbed for service in connection with the administration of the Union Territory of Goa, Daman and Diu, recommends, under clause (3) of article 117 of the Constitution, the consideration of the said Bill in the Lok Sabha.

FINANCIAL MEMORANDUM

About 6,000 persons who were serving in the Portuguese Administration or corporate bodies were taken over by the Central Government consequent on integration of Goa, Daman and Diu with the Union of India. Of these, about 1,250 employees have been absorbed by the various Departments of the Central Government and the others have served or are serving in connection with the administration of the Union territory. The Bill if enacted and brought into force will involve additional expenditure from the Consolidated Fund of India in respect of the employees absorbed by the Departments of the Central Government, only if the rules which may be made provide for conditions of service more liberal than those at present enjoyed by these employees. As details of the scale of pay, etc., which may be allowed to these employees are still being worked out, it is not possible to give an estimate of the additional expenditure, if any, involved at this stage. Any expenditure which may arise consequent on the application of the rules to the persons serving in connection with the administration of the Union territory will be met from the Consolidated Fund of the Union territory.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 2 of the Bill provides that the Central Government may make rules for regulation of recruitment to absorbed posts and conditions of service of absorbed employees as well as of employees serving in corporate bodies before the 20th December, 1961, and subsequently absorbed by the Administration of the territory or any Department of the Central Government. Under sub-clause (2) of clause 3, the Central Government may give retrospective effect to any of the rules from a date not earlier than 20th December, 1961. This provision has been made because in regard to certain matters like travelling allowance, the Central rules have already been made applicable to these employees. The matters in respect of which rules are to be made are those mentioned in the proviso to article 309 in respect of which the President is already empowered to make rules. The delegation of legislative power is, therefore, of a normal character.

B. L. SHAKDHER,
Secretary.